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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **ELIZABETH ANN LANGER**  
13 4561 Adobe Road, #29  
29 Palms, CA 92277

Case No. **2010-485**

14 **ACCUSATION**

15 Registered Nurse License No. 535128

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about August 8, 1997, the Board of Registered Nursing issued Registered  
24 Nurse License Number 535128 to Elizabeth Ann Langer (Respondent). The Registered Nurse  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on April 30, 2011, unless renewed.  
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28

## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code provides that each license not renewed shall expire but may within eight years be reinstated upon payment of fees and submission of proof of the applicant's qualifications as may be required by the Board.

## STATUTORY PROVISIONS AND REGULATIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the

1 public or to the extent that such use impairs his or her ability to conduct with safety to  
2 the public the practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription,  
4 consumption, or self-administration of any of the substances described in  
5 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
6 record pertaining to, the substances described in subdivision (a) of this section, in  
7 which event the record of the conviction is conclusive evidence thereof.

8 8. Section 2765 provides:

9 A plea or verdict of guilty or a conviction following a plea of nolo  
10 contendere made to a charge substantially related to the qualifications, functions and  
11 duties of a registered nurse is deemed to be a conviction within the meaning of this  
12 article.

13 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
14 revoke a license on the ground that the licensee has been convicted of a crime substantially  
15 related to the qualifications, functions, or duties of the business or profession for which the  
16 license was issued.

17 10. Section 493 of the Code states:

18 Notwithstanding any other provision of law, in a proceeding conducted  
19 by a board within the department pursuant to law to deny an application for a license  
20 or to suspend or revoke a license or otherwise take disciplinary action against a  
21 person who holds a license, upon the ground that the applicant or the licensee has  
22 been convicted of a crime substantially related to the qualifications, functions, and  
23 duties of the licensee in question, the record of conviction of the crime shall be  
24 conclusive evidence of the fact that the conviction occurred, but only of that fact, and  
25 the board may inquire into the circumstances surrounding the commission of the  
26 crime in order to fix the degree of discipline or to determine if the conviction is  
27 substantially related to the qualifications, functions, and duties of the licensee in  
28 question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'  
and 'registration.'

11. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate  
the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

1 Each board shall take into account all competent evidence of rehabilitation  
2 furnished by the applicant or licensee.

3 12. Title 16, California Code of Regulations, section 1444, states:

4 A conviction or act shall be considered to be substantially related to the  
5 qualifications, functions or duties of a registered nurse if to a substantial degree it  
6 evidences the present or potential unfitness of a registered nurse to practice in a  
7 manner consistent with the public health, safety, or welfare. Such convictions or acts  
8 shall include but not be limited to the following:

9 (a) Assaultive or abusive conduct including, but not limited to, those  
10 violations listed in subdivision (d) of Penal Code Section 11160.

11 (b) Failure to comply with any mandatory reporting requirements.

12 (c) Theft, dishonesty, fraud, or deceit.

13 (d) Any conviction or act subject to an order of registration pursuant to  
14 Section 290 of the Penal Code.

15 13. Title 16, California Code of Regulations, section 1445, subdivision (b), provides the  
16 following criteria for evaluating the rehabilitation of a licensee as follows:

17 (b) When considering the suspension or revocation of a license on the grounds that  
18 a registered nurse has been convicted of a crime, the Board, in evaluating the  
19 rehabilitation of such person and his/her eligibility for a license will consider the  
20 following criteria:

21 (1) Nature and severity of the act(s) or offense(s).

22 (2) Total criminal record.

23 (3) The time that has elapsed since commission of the act(s) or offense(s).

24 (4) Whether the licensee has complied with any terms of parole, probation,  
25 restitution or any other sanctions lawfully imposed against the licensee.

26 (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4  
27 of the Penal Code.

28 (6) Evidence, if any, of rehabilitation submitted by the licensee.

### 29 COST RECOVERY

30 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
31 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(October 23, 2009 Conviction for DUI on June 15, 2009)**

5 15. Respondent is subject to disciplinary action under sections 490 and 2761(f) for  
6 conviction of a crime that is substantially related to her qualifications, functions and duties as a  
7 registered nurse. The circumstances are as follows:

8 a. On or about October 23, 2009, in a criminal proceeding entitled *People of the*  
9 *State of California v. Elizabeth Ann Langer*, San Bernardino County Superior Court, Case No.  
10 TMB900838, Respondent was convicted on her guilty plea of violating Vehicle Code section  
11 23152(a), driving under the influence of alcohol.

12 b. As a result of the conviction, on or about October 23, 2009, Respondent was  
13 sentenced to three years of probation, to pay fees and restitution in the amount of \$1738.00 and to  
14 attend and complete a court approved nine month rehabilitation program.

15 c. The facts that led to the conviction were that at approximately 5:30 p.m. on or  
16 about June 15, 2009, Respondent drove her vehicle up a curb, onto the front yard of a residence  
17 and hit a palm tree with her vehicle on Mariposa Avenue in the City of Twentynine Palms. As a  
18 result of this traffic collision, the police were called. The arresting officer observed that  
19 Respondent appeared intoxicated. She then complained of being injured so the paramedics were  
20 called to the scene. When the paramedics arrived, Respondent yelled at them and became  
21 combative towards them. The police officer handcuffed her and placed her in his patrol unit. In  
22 the back seat of his patrol unit, Respondent slipped out of her handcuffs and banged her hands  
23 against the window. The police officer then asked her to step out of the unit so that he could  
24 place the handcuffs back on her but Respondent refused and kicked him with both of her feet. He  
25 then sprayed her with pepper spray and transported her to the hospital where she became  
26 combative towards the medical staff. In addition to being charged with violations of Vehicle  
27 Code 23152(a), she was charged with violating Vehicle Code 23152(b), blood alcohol greater  
28

1 than 0.08% and Penal Code section 148(a)(1), resisting arrest, but these charges were dismissed  
2 in a plea bargain.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct-Use of Alcohol in a Dangerous Manner)**

5 16. Respondent is subject to disciplinary action under Code section 2762(b) for  
6 unprofessional conduct in that Respondent used alcoholic beverages to an extent or in a manner  
7 dangerous or injurious to herself or the public, as is more fully set forth in paragraph 15 above,  
8 which is incorporated herein by reference.

9 **THIRD CAUSE OF ACTION**

10 **(Conviction of a Crime Involving Alcohol)**

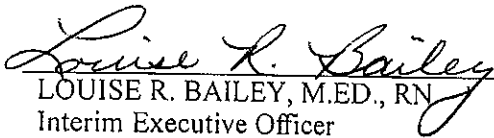
11 17. Respondent is subject to disciplinary action under Code section 2762(c) for  
12 unprofessional conduct in that Respondent was convicted of a criminal offense involving alcohol,  
13 as is more fully set forth in paragraph 15, above, which is incorporated herein by reference.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Registered Nursing issue a decision:

- 17 1. Revoking or suspending Registered Nurse License Number 535128, issued to  
18 Elizabeth Ann Langer;
- 19 2. Ordering Elizabeth Ann Langer to pay the Board of Registered Nursing the  
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
21 Professions Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.
- 23

24 DATED: 3/30/10

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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